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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,264	09/15/2003	David H. Burns	CPCM:0014/FLE 210349US1	9028
7590	09/14/2004		EXAMINER CHEUNG, WILLIAM K	
Fletcher Yoder Attn: Michael G. Fletcher P.O. Box 692289 Houston, TX 77269-2289			ART UNIT 1713	PAPER NUMBER

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/662,264	<b>Applicant(s)</b> BURNS ET AL.	
	<b>Examiner</b> William K Cheung	<b>Art Unit</b> 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,23,25,27,29,31,33,35 and 39 is/are rejected.
- 7) ☒ Claim(s) 24,26,28,30,32,34,36-38 and 40-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0223, 0331</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The examiner acknowledges that a typographical error that claims 29-42 were left out from the group II invention. Therefore, claims 29-42 are now joined with group II since claims 29-42 are drawn to a polymerization process.
2. Applicant's affirmed election of Group II invention, claims 22-42, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, in view of lack of traversal to restriction requirement set forth from Response to Restriction Requirement, the restriction set forth by the examiner is deemed proper and is therefore made Final.

### ***Claim Objections***

3. Claim 35 is objected to because of the following informalities: The punctuation in claim 35 (line 3) is improper. Claim 35 (line 6) is missing a period. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 40 (line 1), the recitation "111as". What is this?

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 22, 23, 25, 27, 29, 31, 33, 35, 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Begley (US 2,917,465).

Begley (col. 1, line 55 to col. 2, line 45) discloses a process for preparing a catalyst slurry and providing the catalyst slurry to a polymerization reaction. The process comprises adding the desired pounds of catalyst to a catalyst slurry vessel,

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solvent added and a slurry of desired concentration. The slurry is then fed to a conduit carrying the desired solvent and the solvent slurry mixture continuously passed to the reactor. Further, Begley also indicates that that the disclosed process involves feed rate that is automatically compensated for variation in the concentration of the catalyst-slurry. Therefore, in view of the teachings in Begley, the examiner has a reasonable basis to believe that the claimed "forming a catalyst slurry from a dry catalyst and a liquid medium", "maintaining the catalyst slurry at an essentially homogeneous solids-to-liquid ratio", "pumping the catalyst slurry into the polymerization reaction zone", "measuring the flow of the catalyst slurry pumped into the polymerization reaction zone", and "altering the flow of the catalyst slurry pumped into the polymerization reaction zone at least partially in response to the measured flow" are inherently possessed in Begley. Claims 22, 23, 25, 27, 29, 31, 33, 35, 39 are anticipated.

***Allowable Subject Matter***


8. Claims 24, 26, 28, 30, 32, 34, 36-38, 40-42 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung

Primary Examiner

September 9, 2004

**WILLIAM K. CHEUNG  
PRIMARY EXAMINER**